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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5232

AN ORDINANCE relating to updating the Bellevue Land Use Code to correct typographical errors, inaccurate citations, and inadvertent repeals, to clarify provisions of the Land Use Code and to ensure internal consistency; amending Sections 20.10.100, 20.20.010, 20.20.025C, 20.20.030E, 20.20.520E, 20.25F.040B, 20.25H.090A, 20.25H.100C, 20.25J.030, 20.25J.040B, 20.30D.195C, 20.30K.120, 20.45A.150, 20.45B.030C, 20.45B.080, 20.45B.130, 20.45B.240A, 20.50.012 (Part) and 20.50.020 (Parts) of the Bellevue Land Use Code; repealing Section 20.25F.050D to the Bellevue Land Use Code.

WHEREAS, the City of Bellevue continues to conduct a regulatory reform program to amend its Land Use Code to improve regulatory standards, omit unnecessary regulation and provide consistency between code sections; and

WHEREAS, it is the intent of the Bellevue City Council that the Land Use Code be free of typographical errors and inaccuracies to provide consistency, clarity and ease of administration of the land use permit and approval processes; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 20.10.100 of the Bellevue Land Use Code is hereby amended as follows:

20.10.100 District descriptions.

LUC 20.10.180 through 20.10.370 describe the purpose and scope of the City's land use districts. These sections may be used to guide the interpretation of the regulations associated with each district.

Section 2. Section 20.20.010 of the Bellevue Land Use Code is hereby amended as follows:

[INSERT CHART – DELETE REFERENCE TO FOOTNOTE 21 IN DU/AC SECTION

[INSERT CHART – DELETE REFERENCE TO FOOTNOTE 21 IN DU/AC SECTION]

Notes: Uses in land use districts – Dimensional requirements

(1) Side yard setback in R-30 Districts increases to 20 feet on any side yard where

structure exceeds 30 feet above finished grade.

(2) All rear and side yards shall contain landscaping as required by LUC 20.20.520.

(3) See LUC 20.20.012.

(4) See LUC 20.20.015.

(5) Except in transition areas, the maximum allowable building height in R-20 Districts may be increased to 40 feet if ground floor or underground parking for that building is provided and occupies a minimum of 75 percent of the building footprint.

(6) The maximum allowable building height is 75 feet on any property designated OLB which lies within 475 feet of the right-of-way of I-405, between I-90 and SR-520.

(7) Dimensional requirements for Downtown Land Use Districts are listed in LUC 20.25A.020.

(8) Any office building or any office portion of a building shall comply with the following limitations on Floor Area Ratio:

(a) At 0.5 FAR, no office building or office portion of a building may exceed 50,000 square feet of gross floor area; and

(b) For any office building or office portion of a building greater than 50,000 square feet in gross floor area the following sliding scale shall be observed as interpolated and extrapolated below:

(i) At 0.3 FAR, no office building or office portion of a building may exceed 100,000 square feet of gross floor area; and

(ii) At 0.1 FAR, no office building or office portion of a building may exceed 150,000 square feet of gross floor area.

*(9) The maximum building height may be exceeded upon approval of the Director of Planning and Community Development. Requests for such approval shall be processed in accordance with the administrative conditional use procedure of Part 20.30E LUC. Before granting any such approval, the Director of Planning and Community Development must find that:

(a) The height increase is only to accommodate equipment, structures or buildings that contain special equipment primarily related to light manufacturing, wholesale, trade and distribution use, and is not for office or bulk retail use; and

(b) There is functional need for a height increase; and

(c) The overall site development will minimize adverse impacts caused by the height increase.

Notwithstanding the provisions of this note, no height increase is permitted within a Transition Area as defined in Part 20.25B LUC.

*Not effective within the jurisdiction of the East Bellevue and Sammamish Community Councils. The maximum building height in LI Districts shall remain 30 feet.

*(10) Except in transition areas, the allowable building height of any building located in PO, O, OLB, GC, NB, or CB Districts may be increased by one story, but not to exceed 15 feet, if basement parking for that building occupies a minimum of 75 percent of the building footprint.

* Not effective within the jurisdiction of the East Bellevue and Sammamish Community Councils. The maximum building height in the LI Districts shall remain 30 feet.

(11) The LUC contains enhanced setback requirements for churches, clubs, and institutions (refer to LUC 20.20.190) and schools (refer to LUC 20.20.740) located in residential land use districts.

(12) For each square foot of lot area devoted to open space in excess of 30 percent of the total lot area, one square foot is added to the lot area for the purpose of calculating density.

(13) Lot coverage is calculated after subtracting all Protected Areas defined by LUC 20.25H.070.

(14) Maximum lot coverage by structures is determined after public right-of-way and private roads are subtracted from the gross land area.

(15) If there is a conflict between the minimum lot area and the permitted number of dwelling units per acre, the minimum lot area controls.

(16) Exceptions to Lot Coverage.

(a) Underground buildings as defined in LUC 20.50.050 are not structures for the purpose of calculating lot coverage.

(b) Buildings constructed partially below grade and not higher than 30 inches above existing or finished grade, whichever is lower, are not structures for the purpose of calculating lot coverage subject to the following conditions:

(i) The 30-inch height limit must be met at all points along the building excluding those areas necessary to provide reasonable ingress and egress to the underground portions of the building; and

(ii) The rooftop of the building shall be screened from abutting properties with 10 feet of Type II landscaping as described in LUC 20.20.520G.2 except that the required trees shall be a minimum of 10 feet in height at planting; or, if a use is proposed for the rooftop, the rooftop may be landscaped consistent with the planting requirements for the specific use that is proposed and for the land use district in which the use is located. All landscaping shall comply with standards set forth in LUC 20.20.520. The provisions of LUC 20.20.520.J (Alternative Landscaping Option) are applicable.

(17) If the setback abuts a street right-of-way, access easement or private road, the minimum dimension is 10 feet unless a greater dimension is specified.

(18) See LUC 20.20.030 for designation and measurement of setbacks.

*(19) Notwithstanding any other provision of this Code, except Part 20.25B LUC, as applicable, the allowable building height of an office building may be increased by one story, not to exceed 15 feet, if a minimum of 75 percent of the ground floor of that building is devoted to parking for that building.

*Effective only within Community Council jurisdiction.

(20) See LUC 20.25H.090 for additional sensitive area setbacks.

See LUC 20.25H.100 for additional sensitive area density/intensity limitations.(22)

Density for senior citizen dwelling, congregate care senior housing, and assisted living is calculated as follows: units less than 600 square feet count as 0.5 unit and units 600 square feet or greater count as one unit.

(23) This residential density may be in addition to FAR only for senior citizen dwellings, assisted living and congregate care senior housing.

(24) Lot coverage may be increased to 50 percent if congregate care senior housing, senior citizen dwellings, assisted living or nursing homes are constructed on-site; provided, however, that coverage for the nonresidential portions of the development cannot exceed the maximum limits indicated. Lot coverage within NB Districts may be increased to 50 percent for mixed use development which includes residential uses comprising at least one-half the square footage of the building footprint. Underground parking in excess of 50 percent of the site area shall not be included in lot coverage calculations.

(25) The maximum building height for structures is increased to 30 feet only if residential uses are provided on the second floor and provided the structure does not exceed two stories. For purposes of this note, a story is defined pursuant to the Uniform Building Code, Section 420 as amended.

(26) See LUC 20.20.125 for specific requirements applicable to detached accessory structures.

(27) Lot coverage for schools located in residential land use districts is limited to 35 percent of the site area (refer to LUC 20.20.740).

Section 3. Section 20.20.025C of the Bellevue Land Use Code is hereby amended as follows:

20.20.025 Intrusions into required setbacks.

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C. Minor Building Elements.

Subject to LUC 20.20.025.C.3, minor building elements including patios, platforms, eaves,

trellises, open beams, fireplace chimneys, decks, porches, balconies, lanais, bay windows, greenhouse windows and similar elements of a minor character may intrude into a required setback as follows:

1. Any portion of a minor building element which equals or exceeds 30 inches above finished grade at its location may intrude into a required setback a distance no greater than 20 percent of the minimum dimension of that setback, or at least 18 inches, whichever is greater.

2. Any portion of a minor building element which is less than 30 inches above finished grade at its location may extend to any lot line.

3. Except for eaves, the combined length of all minor building elements, which equal or exceed 30 inches above finished grade on any building facade, shall not exceed 25 percent of the length of that facade.

4. Minor building elements may not be used to extend the enclosed building floor area into the required setback, except chimneys and bay windows protruding no more than 18 inches into the setback may extend to the finished grade at their location.

5. A minor building element may extend into a setback required by LUC 20.25H.090 only if it is above the ground level and if vegetation will be maintained in a healthy condition. Solar access to vegetation must be maintained at least 50 percent of daylight hours during the normal growing season.

Note: Heat pumps are not minor building elements. Retaining walls and rockeries 30 inches or greater in height are not minor building elements.

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Section 4. Section 20.20.030E of the Bellevue Land Use Code is hereby amended as follows:

20.20.030 Designation and measurement of required setbacks.

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- E. The setback requirements of 20.25H.090 are in addition to the setback requirements of LUC 20.20.010 and 20.25A.020. The greater setback dimension is required.

Section 5. Section 20.20.520E of the Bellevue Land Use Code is hereby amended as follows:

20.20.520 Tree preservation and landscape development.

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- E. Preservation of Significant Trees.

1. Perimeter Landscaping Area. In the required perimeter landscaping area, the applicant shall retain all significant trees which will not constitute a safety hazard. Area devoted to access and sight distance as defined in the Transportation Code (Chapter 14.06 BCC), and area to be cleared for required roads, utilities, sidewalks, trails, or storm drainage improvements is exempt from this requirement.

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Section 6. Section 20.25F.040B of the Bellevue Land Use Code is hereby amended as follows:

20.25F.040 Site and design requirements.

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B. Site Requirements.

The following chart sets forth the dimensional and site requirements for each performance area in the Evergreen Highlands Design District. Each structure, development or activity in the district must comply with these requirements.

[INSERT CHART – NO AMENDMENTS NEEDED TO CHART]

(1) The first figure represents the minimum setback from NE 40th, 156th Avenue NE and Bellevue-Redmond Road. The second figure represents the minimum setback from any street, private road, or the interior edge of an access easement within the Design District.

(2) Floor Area Ratio is applied to Research and Development Uses and Office Uses on a project limit basis.

(3) The maximum height of a structure may be increased to 75 feet and six stories if the structure is located in the interior of the performance area and the individual building floor size is limited to 25,000 gross square feet. If building height over 45 feet is proposed, the applicant must submit an analysis of increased view intrusion from residential areas within the Subarea.

(4) Minimum Setback, excluding the setback from NE 40th, 156th Avenue NE or Bellevue-Redmond Road, and Minimum Building Separation may be modified through Design Review Part 20.30F LUC if:

(a) The modification achieves a site design superior to that which would otherwise have been possible; and

(b) The modification has no significant adverse impact on adjacent property; and

(c) The modification facilitates the coordinated development of the Design District.

(5) All buildings within 150 feet of Performance Area A are limited to 35 feet in height.

(6) Area devoted to public or private parkland may be used to calculate floor area ratio or density, and may be used to meet the minimum percentage of pervious surface required. Parkland includes all area devoted to open space, active or passive recreation, indoor recreation and other space for the use and enjoyment of residents, employees or the public, excluding required landscaping.

(7) Applied to all development on a project limit basis.

(8) Measured by ratio of acres to projected number of residents. The specific location of parkland will be determined through the Master Development Plan Process.

(9) Measured by a ratio of acres to projected number of employees. The specific location of parkland will be determined through the Master Development Plan Process.

(10) Calculated based on gross floor area minus any area devoted to parking or vehicular circulation divided by gross land area.

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Section 7. Section 20.25F.050D of the Bellevue Land Use Code is hereby repealed:

20.25F.050 Pollution and hazardous waste control standards.

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D. The provisions of the Noise Control Code (Chapter 9.18 BCC) apply to the Evergreen Highlands Design District except as they conflict with the provisions of this section.

Section 8. Section 20.25H.090A of the Bellevue Land Use Code is hereby amended as follows:

20.25H.090 Structure setbacks.

A. General.

The requirements of this section apply along with any other dimensional requirements of the Land Use Code (see LUC 20.20.010, 20.20.130, 20.20.190 and Parts 20.25A – 20.25G).
The most restrictive dimension controls.

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Section 9. Section 20.25H.100C of the Bellevue Land Use Code is hereby amended as follows:

20.25H.100 Density/intensity calculation.

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C. Floor Area Ratio for Office Space.

1. The maximum allowable office floor area for a site which contains a protected area designated by LUC 20.25H.070 is equal to 0.5 times the buildable area plus 0.5 times the protected area times the Development Factor derived from subsection D of this section:

$0.5 \times \text{Buildable Area} + 0.5 \times (\text{Protected Area} \times \text{Development Factor}) = \text{Maximum Office Development Potential}$

2. A property which contains a protected area designated by LUC 20.25H.070 is exempt from the sliding scale FAR requirement of LUC 20.20.010, Note (8) (Notes: Uses in Land Use Districts – Dimensional Requirements). The applicable maximum floor area ratio to the buildable area is 0.5 regardless of building square footage.

Section 10. Section 20.25J.030 of the Bellevue Land Use Code is hereby amended as follows:

20.25J.030 Dimensional requirements.

The following chart establishes the dimensional requirements for the Institutional Land Use District

(1) The maximum building height is 75 feet on any portion of property which lies within 475 feet of the right-of-way of I-405 between I-90 and SR 520.

(2) The height of a structure used primarily as a hospital, located within 475 feet of the right-of-way of I-405 between I-90 and SR 520, may be increased from 75 feet to a maximum height of 120 feet by the achievement of at least 50 points through the on-site provision of the following public amenities, which must include the provision of at least one of the amenities listed in (3)a through d:

- a. Child care service (described in LUC 20.25A.030.C.17): 10 points;
- b. Space for nonprofit social services (described in LUC 20.25A.030.C.21 and defined as a separate entity from the institution itself, and related to the institutional function): 10 points;
- c. Underground parking (described in LUC 20.25A.030.C.11): 10 points;
- d. Transit facility: 10 points;
- e. Public outdoor plaza (described in LUC 20.25A.030.C.2): 10 points;
- f. Donation of park property (described in LUC 20.25A.030.C.22): 10 points;
- g. Water feature (described in LUC 20.25A.030.C.15): 10 points;
- h. Landscape area (described in LUC 20.25A.030.C.8): 10 points;
- i. Active recreation area (described in LUC 20.25A.030.C.9): 10 points;
- j. Weather protected arcade (described in LUC 20.25A.030.C.5): 10 points.

Section 11. Section 20.25J.040B of the Bellevue Land Use Code is hereby amended as follows:

20.25J.040 Parking and transportation management requirements.

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B. The requirements of Section 14.60.070 BCC (Transportation Management Program) will be considered as part of the Master Development Plan review. An alternative transportation management program may be required, whereby a performance standard is designated and program features to attain this performance standard are established. Such program features may include special site design features, annual promotion events, contracted parking enforcement, contribution to residential parking zone (RPZ) expenses; shuttle services, financial incentives to employees, and a guaranteed ride home program.

Section 12. Section 20.30D.195C of the Bellevue Land Use Code is hereby amended as follows:

20.30D.195 Planned Unit Development plan – Merger with subdivision.

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C. Plat Requirements.

The preliminary plat must comply with the procedures, standards and criteria of Chapters 20.45A or 20.45B LUC and must conform to the Planned Unit Development plan.

Section 13. Section 20.30K.120 of the Bellevue Land Use Code is hereby amended as follows:

20.30K.120 Purpose.

An interpretation of the provisions of the Land Use Code clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of the Code. A request for a Code interpretation must relate to a specific site, land use district, use or application within the City of Bellevue. An interpretation of the provisions of the Land Use Code may not be used to amend that Code.

Section 14. Section 20.45A.150 of the Bellevue Land Use Code is hereby amended as follows:

20.45A.150 Preliminary plat – Extension for phased development.

The Director of Planning and Community Development may extend a preliminary plat for a phased development, but not including the initial phase or division one improvements, for up to three additional years beyond the period provided in LUC20.45A.140, above, if:

A. A written request for extension is filed at least 30 days before the expiration of the preliminary plat; and

B. Unforeseen circumstances or conditions which are not the result of voluntary actions of the applicant necessitate the extension of the preliminary plat; and

C. Conditions in the immediate vicinity of the subject property have not changed substantially since the preliminary plat was first approved; and

D. An extension of the preliminary plat will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole; and

E. The applicant has demonstrated reasonable diligence in attempting to meet

the time limit imposed; and

F. The preliminary plat substantially complies with applicable City Code provisions in effect on the date that the application for extension was made.

Section 15. Section 20.45B.030C of the Bellevue Land Use Code is hereby amended as follows:

20.45B.030 Definitions specific to short plat and short subdivision chapter.

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C. Revision.

The modification of a previously approved and recorded short plat which results in the addition of new lots, tracts, parcels or sites, but which does not result in the creation of a total of more than four legal building lots within the boundaries of the originally approved and recorded short plat;

....

Section 16. Section 20.45B.080 of the Bellevue Land Use Code is hereby amended as follows:

20.45B.080 Preliminary short plat – Applicable procedure.

The City will process an application for a preliminary short plat pursuant to LUC 20.45B.120 through 20.45B.180. The Director of Planning and Community Development is the applicable Department Director.

Section 17. Section 20.45B.130 of the Bellevue Land Use Code is hereby amended as follows:

20.45B.130 Preliminary short plat –Department Director's decision.

A. Decision Criteria.

The Department Director may approve or approve with modifications if:

1. The preliminary short plat makes appropriate provisions for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets, sidewalks, alleys, other public ways, water supplies, sanitary waste; and

2. The public interest is served by the short subdivision; and

3. The preliminary short plat appropriately considers the physical characteristics of the proposed short subdivision site; and

4. The proposal complies with all applicable provisions of the Land Use Code (BCC Title 20), the Utility Codes (BCC Title 24), and the City of Bellevue Development Standards; and

5. The proposal is in accord with the Comprehensive Plan (BCC Title 21); and

6. Each lot in the proposal can reasonably be developed in conformance with current Land Use Code requirements without requiring a variance; and

7. All necessary utilities, streets or access, drainage and improvements are planned to accommodate the potential use of the entire property.

B. Written Decision of the Director:

1. Content. The Department Director shall issue a written decision which contains the following:

a. A statement indicating that the application is approved, approved with modifications or denied; and

b. A statement of any conditions included as part of an approval; and
c. A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts; and
d. A statement of the right of any person who participated in the decision as provided for in LUC 20.45B.120 to appeal the decision of the applicable Department Director as provided for in LUC 20.45B.140.

2. Distribution. The Department Director shall mail the written decision to the applicant and each person who participates in the decision as provided for in LUC 20.45B.120.

Section 18. Section 20.45B.240A of the Bellevue Land Use Code is hereby amended as follows:

20.45B.240 Final short plat – Revision.

A. Land within a short subdivision, the short plat of which has been approved within five years immediately preceding, may not be further subdivided in any manner unless a final subdivision thereof has been approved and filed for record in accordance with Chapter 20.45A LUC, or a Binding Site Plan is approved in accordance with Land Use Code requirements; provided however, when the original short subdivision contains less than four lots it may be revised to create additional lots if no more than four total lots are created within the boundary lines of the original short plat during the original five-year period. For the purposes of calculating the five-year period, the date of approval of a short subdivision shall be the date the short plat was recorded with the King County Department of Records and Elections.

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Section 19. Section 20.50.012 B Definition of Building Height is hereby amended as follows:

20.50.012 B definitions.

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Building Height. The vertical distance measured from the average elevation of the finished grade around the building or building segment to the highest point of a flat roof, or to the mean height between the eaves and ridge of a pitched roof. Specifically excluded from this definition and from the regulation of maximum building height are structural elements not intended for habitation and not exceeding 15 feet above the maximum building height including penthouses for mechanical and elevator equipment, chimneys, wireless communication facility antenna arrays not located in a single-family residential land use districts, smoke and ventilation stacks, flag poles, mechanical and elevator equipment, and parapet walls designed solely to screen mechanical and elevator equipment. This definition does not apply to projects located within a Transition Area Design District (refer to LUC 20.25B.040) or the Shoreline Overlay District (refer to LUC 20.25E.017).

Section 20. Section 20.50.020 F Definition of Filling is hereby amended as follows:
20.50.020

F. Definitions.

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Filling. Placing soil, rock gravel, sand, peat or debris on top of the existing land surface. See BCC Chapter 23.76.

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Section 21. Section 20.50.020 F Definition of Floor Area Ratio (FAR) is hereby amended as follows:

20.50.020 F. Definitions.

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Floor Area Ratio (FAR). A measure of development intensity equal to the gross floor area, excluding parking and mechanical floors or areas, divided by net on-site land area (square feet). Net on-site land area includes the area of an easement but does not include public right-of-way except in the Downtown as provided for in LUC 20.25A.020.D. Refer to LUC 20.25H.100C for additional limitations on development intensity applicable to sites with protected areas.

Section 22. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

PASSED by the City Council this 17th day of July, 2000, and signed in authentication of its passage this 17th day of July, 2000.

(SEAL)

Chuck Mosher, Mayor

Approved as to form:

Richard L. Andrews, City Attorney
Lori M. Riordan, Assistant City Attorney

Attest:
Michelle Murphy, Deputy City Clerk

Published July 21, 2000